



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,977	02/19/2002	Karl-Heinz Schmitz	13470.1605USWO	3599
23552	7590	10/29/2003	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EL ARINI, ZEINAB	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 10/29/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,977

Applicant(s)

SCHMITZ ET AL.

Examiner

Zeinab E. EL-Arini

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C.

112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-10 are indefinite in the recitation of "product concentrate". This is because not all product concentrate can be used for lubricating, cleaning and/ or disinfecting. The term "product concentrate" does not provide information regarding the compositions which can be used.

In claims 1, 3, 10, "and/ or" is indefinite term.

In claim 1, line 3, "which-for lubrication-" is indefinite term, because it is not clear if "which" refers to the "containers" or to "conveyors". At line 6, "facilities" lacks antecedent basis.

In claim 3, line 4, claim 4, line 5, and in claim 5, line 2, "each containing" is confusing term because it is not clear if "each" refers

to "ether amines, ether diamines,---" or refers to "imidazole derivatives". Also the term "the balance to 100%" is not clear if it refers to the balance of product concentrate or not.

In claim 4, "preferably" is indefinite term.

In claim 5, line 1, "the ether amines,-----,-----" lacks antecedent basis.

In claim 6, line 1, "the clear solubility" lacks antecedent basis. At line 5, "Y" lacks antecedent basis. At line 7, "formulae" is indefinite term.

In claim 7, line 7, "the dosing ratio" lacks antecedent basis. At line 6, "or with at least one dosing pump" is confusing because it is not clear if "or" refers to "the second dosing pump", or to "first dosing pump" and "second dosing pump".

In claim 9, line 3, " the case" and at line 4,"with a reversible dosing ratio" are without proper antecedent basis.

In claim 10, line 2, "the underneath", "guide boxes" are without proper antecedent basis.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: The steps of lubricating and for cleaning and/ or disinfecting filling lines for containers. The process as claimed is directed to lubricating and cleaning and/ or disinfecting conveyors.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/08497 (WO'497) or Selbertinger et al. (5,758,761) in combination with Theyssen et al. (5,935,914) and Pierce (4,960,200).

WO'497 or Selbertinger et al. teach an installation and process for lubricating, cleaning and/ or disinfecting conveying belts for foodstuff containers. Lubricant and water are combined at a desired concentration for use, and is subsequently fed to the nozzles of a

transporting system by means of a line system. The reference teaches the water flow meters, the metering pumps, and control unit. See the abstract, Fig. 1 (WO'497), and claims 1-14 (Selbertinger et al.).

WO'497 or Selbertinger et al. do not teach the lubricants, the concentration, and spraying the underneath of the conveyors as claimed.

Theyssen et al. teach a lubricant concentrate of which the aqueous use solution is suited for lubricating, cleaning and disinfecting of feed and conveyance installation in the food industry. The reference teaches the lubricant as claimed. See the abstract, and the document in general.

Pierce teaches apparatus for cleaning a conveyor belt. Pierce teaches spraying the bottom side of the conveyor belt by an aqueous solution. See the claims and the document in general.

It would have been obvious for one skilled in the art to use the lubricants taught by Theyssen et al. in the process taught by WO'497

Art Unit: 1746

or Selbertinger et al to obtain the claimed process. One would adjust the concentration to obtain optimum results.

It would have been obvious for one skilled in the art to use the spray system taught by Pierce in the WO'497 process to obtain the claimed process. This is because using nozzles to clean the bottom of the conveyor belt is well known in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeinab E. EL-Arini whose telephone number is (703) 308-3320. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (703) 308-4333. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Application/Control Number: 09/980,977
Art Unit: 1746

Page 7

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Zeinab EL-Arini
Zeinab E. EL-Arini
Primary Examiner
Art Unit 1746

ZEE
10/27/03